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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/870,373	05/30/2001	LaVonne Cule	BELA 4280.1	7437

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SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

EXAMINER

LEWIS, ADAM M

ART UNIT	PAPER NUMBER
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2174

DATE MAILED: 03/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/870,373

Applicant(s)

CULE ET AL

Examiner

Adam M. Lewis

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, 8, 14-19, 20-23, and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Cain, ("Cain", US# 5,720,502).

As per independent claim 1, Cain teaches a method of graphically indicating patient information, said method comprising the steps of:

defining one or more conditions of a patient (Cain, col. 3, lines 40-49; col. 4, lines 53-57);

selecting an icon corresponding to each of the defined conditions (Cain, col. 4, lines 57-63); and

creating a fixed image wherein each of the selected icons is located at a predetermined position of the image (Cain, col. 4, lines 57-63).

Independent claims 15, 20, and 29 are similar in scope to claim 1, and are therefore rejected under similar rationale.

As per claim 2, which is dependent on claim 1, Cain teaches the method of claim 1, further comprising the step of proximally associating the image with the patient (Cain, col. 4, lines 57-63).

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Dependent claim 23 is similar in scope to claim 2, and is therefore rejected under similar rationale.

As per claim 3, which is dependent on claim 1, Cain teaches the method of claim 1, wherein the conditions are selected from the group consisting of: hearing impairment, right arm weakness, left arm weakness, special diet, no lift, one person lift, two person lift, comatose, total lift, right leg weakness, left leg weakness, cardiac, pivot lift, wheelchair bound, vision impairment, Alzheimer's, potentially combative, incontinent, turn and reposition, cognitive impairment, potential to elope, diabetic, and speech impairment (Cain, col. 5, lines 25-27).

As per claim 4, which is dependent on claim 1, Cain teaches the method of claim 1, further comprising the step of associating an electronic representation of the image with the patient (Cain, Fig. 3; col. 4, lines 52-53).

Dependent claim 18 is similar in scope to claim 4, and is therefore rejected under similar rationale.

As per claim 5, which is dependent on claim 1, Cain teaches the method of claim 1, wherein the step of creating the fixed image includes generating an electronic representation of the image and moving each of the selected icons to its predetermined position on the image (Cain, col. 4, lines 57-63).

Dependent claim 17 is similar in scope to claim 5, and is therefore rejected under similar rationale.

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As per claim 6, which is dependent on claim 5, Cain teaches the method of claim 5, further comprising the step of printing the image with the selected icons in their respective, predetermined positions on the image (Cain, col. 4, lines 63-67).

Dependent claim 19 is similar in scope to claim 6, and is therefore rejected under similar rationale.

As per claim 8, which is dependent on claim 5, Cain teaches the method of claim 5, further comprising the step of storing the image with the selected icons in a computer readable medium (Cain, col. 4, lines 63-67).

As per claim 14, which is dependent on claim 1, Cain teaches one or more computer readable media having computer-executable instructions for performing the method recited in claim 1 (Cain, col. 4, lines 49-52).

Dependent claim 28 is similar in scope to claim 14, and is therefore rejected under similar rationale.

As per claim 16, which is dependent on claim 15, Cain teaches the system of claim 15, wherein the creation component comprises a software application stored on a computer readable medium (Cain, col. 4, lines 49-52).

As per claim 21, which is dependent on claim 20, Cain teaches the method of claim 20, wherein the step of displaying includes displaying each of the selected icons at a predefined position of an image representative of the patient (Cain, col. 4, lines 57-63).

As per claim 22, which is dependent on claim 20, Cain teaches the method of claim 20, further comprising the step of allowing the user to create a fixed representation of the image (Cain, col. 4, lines 57-63).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9, 10, 13, and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cain in view of Evans ("Evans", US# 5,924,074).

As per claim 9, which is dependent on claim 8, Cain teaches a field in which the patient's name may be entered onto the electronic form (Cain, col. 4, lines 24-27), but fails to teach the step of searching for a stored image based on a name associated with the patient.

However, Evans teaches scanning the list to select the name of the appropriate patient (Evans, col. 5, lines 63-65).

It would have been obvious to one skilled in the art at the time of invention to include the name searching system of Evans in the health care communication system of Cain because it would provide easy and immediate access to the records stored within the system.

As per claim 10, which is dependent on claim 9, Evans further teaches the method of claim 8, further comprising the step of modifying a stored image associated

with a particular patient when the conditions of the particular patient change (Evans, col. 5, lines 7-13).

As per claim 13, which is dependent on claim 1, Evans further teaches the method of claim 1, further comprising the step of alerting a health care worker to the at least one condition of the patient via the image (Evans, col. 5, lines 21-25).

As per claim 25, which is dependent on claim 20, Cain fails to teach the method of claim 20, further comprising the step of allowing the user to select with the user interface selection device a form from the group consisting of: an accident investigation report, an employee information test, an employee report of injury, an employee resident survey, a facility to do list, an incident report, a patient information form, a resident handling ergonomics program, a resident handling program key and explanation, a resident handling program training outline, and at least one safety form.

Evans however, teaches an electronic medical records system that includes a patient data form that the user may select (Evans, Fig. 5; col. 6, lines 55-67 and col. 7, lines 1-5).

It would have been obvious to one skilled in the art at the time of invention to include the multiple forms of Evans in the health care communication system of Cain because it would provide the user with a graphically organized system allowing for easy access to patient's records (Evans, col. 6, lines 40-42).

As per claim 26, which is dependent on claim 25, Evans further teaches the method of claim 25, further comprising the step of allowing the user to customize the

selected form by inputting information relevant to the selected form (Evans, col. 6, lines 55-67 and col. 7, lines 1-5).

As per claim 27, which is dependent on claim 26, Evans further teaches the method of claim 26, further comprising the step of storing each customized form in a computer readable medium (Evans, col. 2, lines 22-24).

5. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cain in view of Dunn ("Dunn", US# 4,656,603).

As per claim 11, which is dependent on claim 1, Cain fails to teach the method of claim 1, further comprising the step of customizing at least one icon to represent a specific condition.

Dunn teaches creating new icons and functions, and inputting the parameters which establish the formal rules for each icon and function (Dunn, col. 5, lines 56-60)

It would have been obvious to one skilled in the art at the time of invention to use the ability to create new icons of Dunn in the medical communication system of Cain because it would provide the user with more descriptive icons, therefore allowing for more accurate notation of the diagnoses.

As per claim 12, which is dependent on claim 11, Dunn further teaches the method of claim 11, further comprising the step of maintaining an archive of original and modified images (Dunn, col. 2, lines 21-25).

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cain in view of Brown et al. ("Brown", US# 6,032,119).

As per claim 7, which is dependent on claim 5, Cain fails to teach the method of claim 5, further comprising the step of executing a computer program for automatically positioning the selected icons in their respective, predetermined positions on the image.

However, Brown teaches automatically placing an icon on a predetermined position of the avatar based on the condition being highlighted (Brown, col. 6, lines 63-67). In the case of Brown, the icon is an unfilled circle to indicate the body part.

It would have been obvious to one skilled in the art at the time of invention to use the automatic icon placement of Brown in the medical communication system of Cain because it would reduce the amount of effort and skill needed to use the system.

7. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cain in view of McCrae et al. ("McCrae", US# 5,826,237).

As per claim 24, Cain fails to teach the method of claim 20, wherein at least one of the icons is linked to at least one other icon such that selecting the at least one icon from the toolbar automatically selects the at least one other icon.

McCrae teaches a medical treatment flow chart system in which adding a specific type of node, or icon, automatically adds another node, or icon, to the flow chart (McCrae, col. 8, lines 59-67). It would have been obvious to one skilled in the art at the time of invention to use the linked icons in the medical diagnosis system of McCrae in the medical communication system of Cain because it would reduce the amount of work the user would be required to do to ensure all notations were made properly.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Karsh et al. (US# 5,826,237) teaches a file characterization for computer operating and file management systems.

Brown (US# 5,960,403) teaches a health management process control system.

Smith et al. (US# 5,970,499) teaches a method and apparatus for producing and accessing composite data.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adam M. Lewis whose telephone number is 703-305-0720. The examiner can normally be reached on M-Th 7:00-4:30, Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine L. Kincaid can be reached on 703-308-0640. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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